

*** NOT FOR PUBLICATION ***

NO. 25912

IN THE SUPREME COURT OF THE STATE OF HAWAII

LLOYD UCKO; NANCY SCHOOCRAFT; JACK APPLEFELD; TERRY APPLEFELD;
ELLIS CAPLAN; TINA CAPLAN, Plaintiffs-Appellants

vs.

A. RAY ROBBINS; M. HELEN ROBBINS; JACEK ROSMARINOWSKY; ANN
ROSMARINOWSKY; ASSOCIATION OF APARTMENT OWNERS OF PU'U PO'A; BOARD
OF DIRECTORS OF THE ASSOCIATION OF APARTMENT OWNERS OF PU'U PO'A;
JOHN DOES 1-10; JANE DOES 1-10; DOE MEMBERS OF THE BOARD OF
DIRECTORS 1-100; DOE PU'U PO'A COMMITTEE MEMBERS 1-100; DOE
PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10; and DOE ENTITIES 1-10,
Defendants

APPEAL FROM THE FIFTH CIRCUIT COURT
(CIV. NO. 01-1-0142)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that the May 27, 2003 judgment in Civil No. 01-1-0142, the Honorable George M. Masuoka presiding, does not satisfy the requirements of Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP). "An appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

[I]f a judgment purports to be the final judgment in a case involving multiple claims or multiple partes, the judgment . . . must . . . specifically identify the party or parties for and against whom the judgment is entered, and . . . must . . . identify the claims for which it is entered, and . . . dismiss any claims not specifically identified[.]

Id.

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For example: "Pursuant to the jury verdict entered on (date), judgment in the amount of \$___ is hereby entered in favor of Plaintiff X and against Defendant Y upon counts I through IV of the complaint." A statement that declares "there are no other outstanding claims" is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so; for example, "Defendant Y's counterclaim is dismissed," or "Judgment upon Defendant Y's counterclaim is entered in favor of Plaintiff/Counter-Defendant Z," or "all other claims, counterclaims, and cross-claims are dismissed."

Id. at 119-20 n.4, 869 P.2d at 1338-39 n.4 (emphases added).

"[A]n appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCF [Rule] 54(b)." Id. at 119, 869 P.2d at 1338.

Although some of the parties asserted counterclaims, cross-claims, and third-party claims, the May 27, 2003 judgment neither resolves nor dismisses the counterclaims, cross-claims, and third-party claims. Granted, when all of the parties stipulate to the dismissal of claims pursuant to HRCF Rule 41(a)(1)(B), "a separate judgment is neither required nor authorized, inasmuch as a plaintiff's dismissal of an action [pursuant to HRCF Rule 41(a)(1)(B)], by filing a stipulation of dismissal signed by all parties, is effective without order of the court." Amantiad v. Odum, 90 Hawai'i 152, 158 n.7, 977 P.2d 160, 266 n.7 (1999) (internal quotation marks and original brackets omitted) (emphasis added). In contrast, the parties in this case stipulated to the dismissal of the counterclaims, cross-claims, and third-party claims by court order pursuant to HRCF Rule 41(a)(2). When a circuit court dismisses claims by a court order, the HRCF Rule 58 separate document rule under

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Jenkins v. Cades Schutte Fleming & Wright requires the circuit court to reduce the dismissal order to a separate judgment. See, e.g., Price v. Obayashi Hawaii Corporation, 81 Hawai'i 171, 176, 914 P.2d 1364, 1369 (1996) ("Although RCCH [Rule] 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCP [Rule] 58, as amended in 1990, expressly requires that 'every judgment be set forth on a separate document.'"); CRSC, Inc. v. Sage Diamond Co., Inc., 95 Hawai'i 301, 306, 22 P.3d 97, 102 (App. 2001) ("[W]here all claims are dismissed and there is no relevant HRCP Rule 54(b) certification as to one or more but not all of the dismissals, there must be one final order (judgment) dismissing all claims against all parties."). The May 27, 2003 judgment does not satisfy the requirements of HRCP Rule 58 according to our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338, and, thus, this appeal is premature. Accordingly,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, October 20, 2003.